

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION**

MONEYGRAM INTERNATIONAL, INC.

Plaintiff,

v.

Civil Action No: 1:18-cv-01036-SCY-LF

**MARK P. KOVALCHUK AND
KOVALCHUK LAW OFFICES, P.A.**

Defendants.

DEFENDANTS' ANSWER TO COMPLAINT

Defendants Mark P. Kovalchuk and Kovalchuk Law Offices, P.A. (hereinafter collectively "Defendants"), by and through their counsel, Brant & Hunt, Attorneys, answer and otherwise respond to the Complaint herein as follows.

1. Defendants admit the allegations in paragraphs 2, 3, and 25 of the Complaint.
2. Defendants deny the allegations in paragraphs 7, 11, 12, 15, 16, 17, 21, 22, 23, 27, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 of the Complaint.
3. Defendants are without information sufficient to form a belief as to the truth of the allegations in paragraphs 1 and 8 of the Complaint, and therefore deny them.
4. The allegations in paragraphs 4, 5, 6, 10, 14, 19, 20, 43 and 44 of the Complaint constitute legal conclusions as to which no response is required, and Defendants reserve their right to present argument and authority to the Court on these and all such legal issues in this lawsuit.

5. In response to the allegations in paragraphs 13, 18, 24 and 32 of the Complaint, Defendants reassert and incorporate herein by reference their responses to the preceding paragraphs of the complaint respectively.

6. In response to the allegations in paragraph 9 of the Complaint, Defendants deny that they were retained by MoneyGram to collect a debt in New Mexico and deny that they received “personally identifiable information” regarding MoneyGram. Defendants otherwise admit the allegations in paragraph 9 of the Complaint.

7. In response to the allegations in paragraph 26 of the Complaint, Defendants state that they were compensated for their legal services by retaining a percentage of the amounts collected, and otherwise deny the allegations.

8. In response to the allegations in paragraph 28 of the Complaint, Defendants state that they performed all legal services in a professional manner and in accordance with the standards of care for legal services in the area. Defendants do not understand the term “covenanted” as used in Paragraph 28, and therefore deny such allegation.

9. In response to the allegations in paragraph 45 of the Complaint, Defendants deny that Plaintiff is entitled to any of the relief requested.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
2. The Complaint is barred by waiver.
3. The Complaint is barred by ratification.
4. The Complaint is barred by estoppel.
5. The Complaint is barred by the doctrine of independent, intervening cause.

6. Plaintiff's damages, if any, are barred or reduced by Plaintiff's failure to mitigate damages.

7. Plaintiff's damages, if any, are the proximate result of fault on the part of the Plaintiff and/or third parties, for whose fault Defendants are neither responsible nor liable; and any such damages should be apportioned in accordance with principles of several liability and comparative fault.

WHEREFORE Defendants respectfully pray for judgment in their favor and against Plaintiff, dismissing Plaintiff's claims with prejudice; for their costs of this action; and for such other relief as may be appropriate.

Respectfully Submitted,

BRANT & HUNT, ATTORNEYS

/s/John M. Brant

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*Attorneys for Defendants Mark P. Kovalchuk and
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of December, 2018, I emailed counsel and electronically filed the foregoing through the CM/ECF system, which caused the following counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

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/s/John M. Brant

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